

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DOROTHY GRACE MARIE MARAGLINO,

Plaintiff,

vs.

J. ESPINOSA, et al.,

Defendants.

1:20-cv-00825-AWI-GSA-PC

**ORDER WITHDRAWING FINDINGS
AND RECOMMENDATIONS
(ECF No. 15.)**

**ORDER FOR PLAINTIFF TO FILE HER
FIRST AMENDED COMPLAINT
WITHIN THIRTY DAYS**

Dorothy Grace Marie Maraglino ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on June 15, 2020. (ECF No. 1.)

On January 4, 2022, the court issued findings and recommendations, recommending that this case be dismissed based on Plaintiff's failure to file her First Amended Complaint pursuant to the court's order issued on December 1, 2021. (ECF No. 15.)

On January 28, 2022, Plaintiff filed objections to the findings and recommendations. (ECF No. 16.) Plaintiff explained that she had obeyed the court's order and mailed her First Amended Complaint to the court; however, the Clerk returned the First Amended Complaint to

1 her refusing to accept it because it was not filed electronically. (Id.) Plaintiff then attempted to
2 file her First Amended Complaint electronically at the prison, but the prison library refused to
3 accept it because only the original complaint is required to be filed electronically. (Id.)

4 The Clerk should not have refused to accept Plaintiff's First Amended Complaint because
5 it was not filed electronically. Plaintiff is correct that only the original complaint is required to
6 be filed electronically. The court regrets that Plaintiff's First Amended Complaint was rejected
7 without justification and that Plaintiff will need to mail it again to the court. The court shall
8 withdraw the pending findings and recommendations and grant Plaintiff thirty more days in
9 which to file her amended complaint.

10 Before mailing the amended complaint, Plaintiff should clearly indicate on the front of
11 the amended complaint that it is her "First Amended Complaint" for case number "1:20-cv-
12 00825-AWI-GSA-PC."

13 Accordingly, **IT IS HEREBY ORDERED** that:

- 14 1. The court WITHDRAWS the findings and recommendations issued on January
15 21, 2022 (ECF No. 15);
- 16 2. Plaintiff is granted an extension of time until thirty days from the date of service
17 of this order in which to file her First Amended Complaint;
- 18 3. Plaintiff should clearly indicate on the front of the amended complaint that it is
19 her "First Amended Complaint" for case number "1:20-cv-00825-AWI-GSA-
20 PC;" and
- 21 4. Plaintiff's failure to comply with this order shall result in a recommendation that
22 this case be dismissed.

23
24 IT IS SO ORDERED.

25 Dated: February 1, 2022

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE